



SUSANA MARTINEZ
Governor

JOHN A. SANCHEZ
Lt. Governor

State of New Mexico
ENVIRONMENT DEPARTMENT
Water & Wastewater Infrastructure
Development Division
DRINKING WATER BUREAU
525 Camino de Los Marquez, Suite 4
Santa Fe, New Mexico 87505
Telephone (505)476-8620 Fax (505)476-8656
Toll Free 1-877-654-8720
www.nmenv.state.nm.us/dwb/



DAVID MARTIN
Secretary

RAJ SOLOMON, PE
Deputy Secretary

CERTIFIED RETURN RECEIPT REQUESTED

7005 1820 0001 5707 8966

March 15, 2011

Adam Delgado
Pojoaque Valley Schools/Jacona Site
1574 State Road 502
Santa Fe, New Mexico 87506

**RE: ADMINISTRATIVE ORDER ON CONSENT, STIPULATED FINAL ORDER NO.
2011-ACO-005, Pojoaque Valley Schools/Jacona Site, PWS# NM3581126**

Mr. Delgado:

Please find attached Administrative Consent Order (ACO) No. 2011-ACO-005, issued to Pojoaque Valley Schools/Jacona Site, PWS# NM3581126, under the Environmental Improvement Act, NMSA 1978, § 74-1-10 and the Drinking Water Regulations, 20.7.10 NMAC. Please review the Administrative Consent Order (Order) carefully to understand what actions must be taken to comply with the requirements of the Order.

If you have any questions or need assistance with meeting the requirements of this Order, please contact Jeff Pompeo, Enforcement Coordinator at 505-476-8620 or via email at Jeff.Pompeo@state.nm.us.

Sincerely,

Raj Solomon PE, Acting Division Director
Water & Wastewater Infrastructure
Development Division

cc. Maria J. Medina, Water System Specialist, District II
Jacob Sanders, Technical Services Specialist
Chelo Hall, Region 6, EPA (Electronic)
Electronic File
Central File

**STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT**

**NEW MEXICO ENVIRONMENT DEPARTMENT
WATER & WASTEWATER INFRASTRUCTURE
DEVELOPMENT DIVISION
DRINKING WATER BUREAU**

Complainant,

No. 2011-ACO-005

v.

**Pojoaque Valley Schools/Jacona Site,
PWS# NM3581126**

Respondent.

**ADMINISTRATIVE ORDER ON CONSENT,
STIPULATED FINAL ORDER**

The New Mexico Environment Department ("NMED") has alleged that Pojoaque Valley Schools/Jacona Site ("Respondent"), has violated and continues to violate the New Mexico Environmental Improvement Act ("EIA"), NMSA 1978, § 74-1-10 and the Drinking Water Regulations ("DW Regulations"), 20.7.10 NMAC. To avoid the delay and expense of litigation, the NMED and Respondent hereby enter into this Administrative Consent Order (ACO) and Stipulated Final Order, pursuant to Section 20.1.5.600.B NMAC, on the terms and conditions specified herein. For purposes of the ACO, Respondent admits the jurisdictional allegations of this ACO and consents to the relief specified herein.

FINDINGS

1. The NMED is an executive agency within the government of the State of New Mexico and is charged with administration and enforcement of the EIA and the DW Regulations.

2. Respondent owns and operates a public drinking water system (System) located in Santa Fe County, New Mexico.

3. The System is a Non Transient Non Community water system as defined by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2, that regularly provides piped drinking water to approximately one thousand five hundred (1500) employees and students and has approximately five (5) service connections to serve these employees and students.

4. Respondent, Pojoaque Valley Schools/Jacona Site, is a "person[s]" as defined by the EIA, NMSA 1978, § 74-1-3 and *see* 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.2.

5. Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16) requires a Non Transient Non Community water system to not exceed the Arsenic MCL of 0.010 mg/L.

6. Compliance with the Maximum Contaminant Levels (MCL) for Arsenic is determined by a Running Annual Average (RAA) as required by Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1).

7. Arsenic samples were collected from Respondent's Entry Point #1 on September 29, 2008, December 29, 2008, March 30, 2009, May 13, 2009, September 22, 2009, December 21, 2009, March 3, 2010, May 20, 2010, August 4, 2010, November 16, 2010. Analysis of the samples resulted in Arsenic concentrations of 0.023 mg/L, 0.021 mg/L, 0.0187 mg/L, 0.0207 mg/L, 0.021 mg/L, 0.025 mg/L, 0.0188 mg/L, 0.0261 mg/L, 0.015 mg/L, and 0.0224 mg/L respectively.

VIOLATION ONE (1)

8. Respondent is in violation of Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.62(b)(16), *Maximum Contaminant Levels (MCL) for Arsenic*, which requires a public water system to not exceed the Arsenic MCL of 0.010 mg/L. Respondent exceeded the MCL for Arsenic at Entry Point #1 during the fourth quarter of 2008, first, second, third, and fourth quarter of 2009 and the first, second, third and fourth quarter of 2010 with a RAA of 0.011 mg/L,

0.01568 mg/L, 0.02085 mg/L, 0.02035 mg/L, 0.02135 mg/L, 0.02138 mg/L, 0.02273 mg/L, 0.02123 mg/L, and 0.02058 mg/L respectively.

TERMS OF SETTLEMENT

Based upon the foregoing findings, Respondent is hereby ordered to comply with the following:

9. By July 1, 2011, Respondent shall have completed the Arsenic abatement systems in all the Pojoaque Valley Schools/Jacona Site areas.
10. By July 1, 2012, be in compliance with Section 20.7.10.100 NMAC, incorporating 40 C.F.R. § 141.23(i)(1) and have a RAA for Arsenic below the MCL of 0.010 mg/L.
11. Submittals made pursuant to the EIA, NMSA 1978, § 74-1-10, or the DW Regulations, 20.7.10 NMAC of this Order shall be sent by standard U.S. Mail or certified mail with return receipt requested to the following address:

**Jeff Pompeo, Enforcement Coordinator
New Mexico Environment Department
Drinking Water Bureau
525 Camino de los Marquez, Suite 4
Santa Fe, NM 87505**
12. If Respondent fails to comply with any of the terms of this ACO, Respondent shall be assessed and pay the following stipulated civil penalties to the State of New Mexico:

\$50.00 per day of unexcused delay
13. Payment(s) shall be by corporate check, certified check, or other guaranteed negotiable instrument made payable to the State of New Mexico, and shall be sent to the NMED at the following address:

**Kathy Romero, Financial Manager
NMED Drinking Water Bureau
525 Camino de Los Marquez, Suite 4
Santa Fe, New Mexico 87505**

14. If Respondent fails to make timely and complete payment(s) under paragraph 12, Respondent shall pay interest on the outstanding balance at the rate established for judgments and decrees under NMSA 1978, § 56-8-4. Respondent shall also be subject to an enforcement action and additional applicable civil penalties for any late payment(s).

15. The NMED retains the right to enforce this ACO and to pursue any relief authorized by the EIA or other provision of law for any violation not addressed herein. In any judicial action arising from this ACO, Respondent agrees that the district court for Bernalillo County shall have personal jurisdiction over the Respondent and exclusive jurisdiction over disputes arising under this ACO, and Respondent waives any right to challenge such jurisdiction in any forum. The laws of New Mexico shall govern the construction and interpretation of this ACO.

16. This ACO shall become effective on the date it is approved and signed by the NMED Secretary.

17. This ACO shall apply to and be binding upon Respondent and the NMED and their successors in interest.

18. This ACO merges all prior written and oral communications and agreements between the NMED and Respondent (Parties) concerning the subject matter of this ACO, contains the entire agreement between the Parties, and shall not be modified without the written agreement of the Parties.

19. Each person executing this Stipulated Final Order represents that he or she has the authority to bind the NMED and Respondent respectively to this ACO, and such representation shall be legally sufficient evidence of actual or apparent authority to bind the NMED and

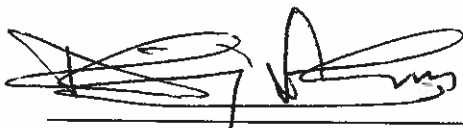
Respondent to this ACO.

MODIFICATION

This Administrative Order shall not be modified except by express written agreement of the Parties.

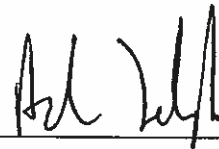
**NEW MEXICO ENVIRONMENT DEPARTMENT
WATER & WASTEWATER INFRASTRUCTURE
DEVELOPMENT DIVISION
DRINKING WATER BUREAU**

By



Raj Solomon PE, Acting Division Director
Water & Wastewater Infrastructure
Development Division

By



Adam Delgado, Superintendent
Pojoaque Valley Schools/
Jacona Site

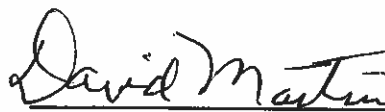
Date

4/5-11

Date

3/30/11

Pursuant to Section 20.1.5.601.B NMAC, this ACO, agreed to by the NMED and Respondent, is hereby APPROVED as a FINAL ORDER.



David Martin
Secretary
New Mexico Environment Department


Date

4-5-11

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Administrative Order on Consent was sent via certified return receipt requested on the following party of record on March ~~7th~~ ^{April} 7th, 2011.

Adam Delgado
Pojoaque Valley Schools/Jacona Site
1574 State Road 502
Santa Fe, New Mexico 87506



Frances Garcia